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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/691,778

10/23/2003

Jerry A. Pickering

10167

7165

7590 11/04/2008  
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EXAMINER

AFZALI, SARANG

ART UNIT

PAPER NUMBER

3726

MAIL DATE

DELIVERY MODE

11/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|   |                                      |   |  |
|---|--------------------------------------|---|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>10/691,778 | <b>Applicant(s)</b><br>PICKERING ET AL. |  |
|   | <b>Examiner</b><br>SARANG AFZALI     | <b>Art Unit</b><br>3726                 |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/DAVID P. BRYANT/  
 Supervisory Patent Examiner, Art Unit 3726

Continuation of 11. does NOT place the application in condition for allowance because: Applicant is mostly presenting same arguments as previously filed and already addressed by the examiner in the previous office actions. In addition, Applicant is mainly arguing that "As shown in Table 2 of the instant application, it is shown in Examples 5 and 6 that superior gloss and contamination numbers result for use of such relatively large particulate polytetrafluoroethylene filler particles dispersed in a fluorelastomer layer when compared to use of relatively smaller inorganic particulate filler employed in Examples 1 and 2. This unexpected result is clearly not shown, taught or mentioned in Eddy." Applicant further argues that "Eddy only suggests polytetrafluoroethylene and fluoroelastomers as alternative fluoroplastics for use in the outer fusing layer of the fuser member thereof" and concludes that "Eddy et al. clearly would not suggest use of polytetrafluoroethylene particles of the claimed size for use in a fluoroelastomer layer to provide the enabling the gloss advantage taught by applicants." Applicant further argues that Donnelly et al. does not overcome such basic deficiency of Eddy et al. and only suggests the use of Teflon for reinforcing silicone elastomer fusing blankets and, even if one were to disregard the fact that Donnelly is directed specifically towards silicone elastomer layers, there is in any event no support for the Examiner's statement that Donnelly et al teaches that it is well known to add plastic filler such as polytetrafluoroethylene with specified sizes to an elastomer layer." Applicant further argues that "each of Eddy, Donnelly and the present invention employ different combinations of materials and elements to provide different effects" and that the Examiner's "proposed combination of Eddy and Donnelly would in fact defeat the basic purpose of the individual references" and as if "the combination is proposed only with the improper application of hindsight based on applicant's own teachings."

The Examiner respectfully disagrees with the above arguments. Regardless of Applicant's assertion of "their unexpected result" not being taught by Eddy et al., the Examiner reiterates that Eddy et al. mainly teach a fuser member comprising fluoroelastomer and filler particles. Although Eddy et al. teach that the filler particles are made of aluminum, but also teach that other filler particles such as silicon particles are added to the fluoropolymer layer in order to increase release of toner from the fuser member (col. 6, lines 5-7) and that a whole array of different fluoroelastomers are suitable for fusing surface layer (col. 5, lines 28-59). Although Eddy et al. fails to explicitly teach the plastic filler particles such as polytetrafluoroethylene, the Examiner relies on Donnelly et al. to teach this deficiency. Note that contrary to the Applicant's assertion, Donnelly et al. explicitly teach that it is well known to add plastic filler particles such as polytetrafluoroethylene to elastomer of a fuser roller considering its known release abilities, temperature resistance, and reinforcing properties (col. 5, lines 8-16) and the Examiner relies on these teachings regardless of the method in which these particles are added or mixed.

The Examiner believes that there is ample motivation for a person of ordinary skill in the art to combine the teachings of Eddy et al. and Donnelly et al. in order to reduce offset and mechanical breakdown and to provide an elastomer for a fuser roller with improved and effective characteristics such as high release abilities.